

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 12508 of 2013
Date of Decision: 04.07.2017**

Dr. Virender Singh, Professor

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Bhupinder Malik, Advocate,
for the petitioner.

Mr. R.K. Doon, A.A.G., Haryana.

Mr. Ramesh Hooda, Advocate,
for respondents no. 2 and 3.

AMOL RATTAN SINGH, J. (ORAL)

In this petition, the petitioner who is a Professor and the Head of the Department of Oral & Maxillofacial Surgery in the Department of Dental Surgery, is seeking promotion to the post of Senior Professor, though it is admitted at the bar by both, learned Senior Counsel appearing for the petitioner as also by learned counsel for the respondent-University, that it is not a promotional post but only a re-designation, which is due to a person after a particular period of experience in the post of Associate Professor.

In the case of an Associate Professor, as per Rule 07 read with Appendix B of the Haryana Medical Education Service Rules 1988, amended vide an amendment made by the Haryana Medical Education (Amendment) Services

Rules 2007, the necessary experience after basic qualifications, for re-designation as a Senior Professor, is 05 years service in the speciality concerned as an Associate Professor, or an equivalent post in the PGIMS, Rohtak.

It is not denied by even the respondents that the petitioner possesses both, the essential qualifications as also the necessary experience as an Associate Professor, he having been promoted/appointed as an Associate Professor/Reader on 29.06.2004. As such, he completed 05 years of experience on that post, on 28.06.2009.

The petitioner is stated to have faced disciplinary proceedings, first resulting in a punishment of stoppage of two increments without cumulative effect, which was eventually reduced by the competent authority to a simple warning.

Whether or not a warning would be an impediment in the way of his re-designation or not, is not necessary to be gone into, because it is also not disputed that the disciplinary proceedings against the petitioner, which led eventually to the aforesaid warning, were initiated against him on 09.07.2010, with him already being qualified for re-designation w.e.f. 28.06.2009.

Mr. Ramesh Hooda, learned counsel for respondents no. 2 and 3, submits that as a matter of fact the petitioner himself did not ask for re-designation as a Professor, vide his representations dated 29.05.2009 and 18.08.2009, which have been annexed as Annexures R-2/2 and R2/3, with the reply of the respondent-University.

He further submits that this is for the reason that the petitioner was eligible at that point of time also for re-designation as a Professor.

In response to the aforesaid contention, Mr. Malik, learned Senior Counsel appearing for the petitioner, submits that as regards the first representation dated 29.05.2009, the petitioner at that point of time was not

eligible for promotion to the post of Senior Professor, he not having completed the requisite 5 years of experience, being one month short thereof.

Though, as regards the representation dated 18.08.2009, there is no explanation coming forth.

Having considered the aforesaid contentions, it is considered appropriate that the petitioner be first re-designated as a Professor from the date he became eligible and thereafter, even though his application for re-designation is as a Professor only, however, since he was otherwise eligible for such re-designation w.e.f. at least 01.07.2009, and it is the duty of the respondent-University to actually ensure that what is due to a person is given to him, he shall be re-designated on the said post with effect from that date.

However, all arrears as would flow to the petitioner from such re-designation, shall be restricted to 03 years prior to the date of his first representation for such re-designation, as Senior Professor, prior to 20.12.2012.

The petition is allowed in the aforesaid terms.

July 04, 2017
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes